

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2228.05
COMPLAINT INVESTIGATOR:	Paul Ash
DATE OF COMPLAINT:	March 1, 2005
DATE OF REPORT:	March 31, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 6, 2005

COMPLAINT ISSUES:

Whether the Monroe County Community School Corporation violated:

511 IAC 7-18-2(a) by failing to provide a free appropriate public education to an eligible student with a disability

511 AC 7-27-7(b) with regard to teacher of record responsibilities

511 IAC 7-21-2(a) with regard to personnel being appropriately certified or licensed

FINDINGS OF FACT:

1. The student is a 12th grade student eligible for special education as a student with a learning disability.
2. The student cognitively functions in the above average range in both verbal and quantitative skills. The student has also passed the Graduation Qualifying Examination and is expected to earn an Academic Honors diploma in the Spring of 2005.
3. The IEP developed October 3, 2003 contains one (1) annual goal ("To successfully complete courses necessary to attain a high school Honors diploma") and one (1) measurable short-term objective ("Complete requirements to receive passing grades in all courses taken for Honors diploma"). The services to be provided are listed as, "[The student] will take all classes within the general education curriculum with support only through consultation." In addition, there is one (1) accommodation listed under the "Student Assessment" section. This accommodation is, "Extend time frame."
4. The IEP developed at the October 30, 2003 Case Conference lists one (1) goal, "To successfully complete courses necessary to attain a high school Honors diploma." The IEP further specifies that, "Progress will be reported on the goals form" and that "Progress toward annual goals will be provided at time of report cards." The complainant reports, in an email of September 17, 2004 that "...we have always received progress reports from the school..."
5. It is documented that the teacher of record attended the student's case conference meeting, provided indirect services, provided progress reports, informed teachers of their responsibilities, ensured accommodations in testing as specified in the IEP, and served as consultant to personnel serving the student prior to the absence of the Algebra II-Honors teacher. It has not been documented that consultation services were provided to the substitute teachers in the Algebra II- Honors class.
6. During the 2003-2004 school year, the student was enrolled in Algebra II-Honors at the school.

7. During the second semester of the 2003-2004 school year, the regularly assigned Algebra II-Honors teacher was out on medical leave from April 6, 2004 through June 9, 2004, due to "an unfortunate medical emergency."
8. Ten (10) substitute teachers taught the Algebra II- Honors course during the second semester of the 2003-2004 school year during the absence of the regularly assigned teacher. In addition, three (3) afternoons were taught by math faculty at the school. Nine (9) of the substitutes had teaching licenses or substitute teacher certificates. One (1) substitute, (JJ), did not have a substitute certificate. JJ substituted from May 7,2004 to May 10,2004. The school did provide a copy of an Application for a Substitute License, dated April 8, 2004, and copy of a Postal Money Order (dated April 20, 2004).
9. A listing of the substitutes used in the Algebra II- Honors program, their certifications, and the amount of time they substituted during second semester of 2003-04 is listed below (some substitutes were only assigned a morning or an afternoon [1/2 day]):

a.	JE	secondary math license	12 mornings and 6 full days
b.	CH	substitute certificate	2 afternoons
c.	AS	secondary math license	1 afternoon
d.	MW	secondary math license	1 afternoon
e.	EK	K-12 PE and 5-12 math license	7 afternoons
f.	JW	substitute certificate	1 morning
g.	CM	substitute certificate	1 morning
h.	JJ	application for sub cert (4-8-04)	4 full days
		Money Order copy (4-20-04)	
i.	DL	chem., bio, science J/S Hi license	1 full day
j.	ME	substitute certificate (BA math)	21 full days
k.	Xx	"used sub in building"	3 afternoons
10. Three afternoons sessions were taught by regular Math teachers on staff at the school who substituted during their break periods. These are indicated by the "used sub in building" designation above.
11. The student received a grade of "F" for the second semester of the Algebra II-Honors class in the second semester of the 2003-04 school year.
12. During the first semester of 2003-2004, the student received a B+ in the Algebra II-Honors class.
13. The school reported that 85% of the students enrolled received an "A, B, or C" in the second semester 2003-04 Algebra II- Honors class. However, many students experienced difficulty with the Algebra II- Honors class contending the absence of the regular teacher and the utilization of many substitutes contributed to sub-standard instruction, lack of continuity, and poor achievement results for the students enrolled. The similarly affected students effectively petitioned the school to offer a remedy to address the poor achievement results and poor grades received by some students.
14. The Complainant proposed that the Algebra II-Honors "grade be dropped as if the children never took the second semester of the class at all and the summer school grade our children earned in the non-honors algebra class replace the honors class grade and be credited as a non-honors class."
15. The Bloomington High School North Curriculum Guide, on page 4, lists qualifying criteria for an Indiana Academic Honors Diploma. Among these requirements are:

1. No grade within the 47 credits lower than a C- may count toward the diploma;

2. The student must have a grade point average of 3.0 (B) or above:
 3. All classes must receive a grade in order to be eligible for the academic honors diploma; and
 4. A student may retake a course. Both courses will appear on the transcript with both grades being included in the calculation of the grade point average (GPA). Any course must be retaken within one calendar year. North High School will note the awarding of an Academic Honors diploma on the student's grade transcript and diploma.
16. The school administration offered students enrolled in the Spring 2004 Algebra II-Honors class three (3) choices with regard to their grades in this course. They could:
- a. Keep the grade earned and recorded;
 - b. Re-take the mid-term and final exams and replace the earlier grade with the grade earned during the re-taking of the exams; or
 - c. Sign up for an Independent Study (IS), having the earlier grade removed and replaced with an 'IS' until the mid-term and final exam re-taken, at which time the "IS" designation would be replaced with the grade earned through the "IS" mid-term and final exam.
17. The parents of the student agreed to the Independent Study option. The previously recorded "F" has been replaced with an "IS" designation on the student's transcript. The "IS" designation is to be replaced with the grade the student earns in the Independent Study as determined by the tests that are to be taken near the end of the second semester of the 2004-05 school year.
18. A November 2, 2004 report of the number of students deciding to participate in the Algebra II-Honors options are: 11 students taking the final exam in December and 6 students taking the class over as an Independent Study (IS).

CONCLUSIONS:

1. Finding of Fact #3 indicates, "[The student] will take all classes within the general education curriculum..." Finding of Fact #3 also indicates the one (1) measurable short term objective as being, "Complete requirements to receive passing grades in all courses taken for Honors diploma." Findings of Fact #7, #8, #9, and #10 indicate a series of substitute teachers taught the Algebra II-Honors course in the spring of 2004. Finding of Fact #11 indicates [the student] received an "F" in the second semester Algebra II-Honors course. Finding of Fact #13 indicates the school recognized that adequate instruction was not provided during the absence of the regular teacher, and Finding of Fact #16 indicates the school offered students three (3) options to remedy the inadequate instruction. Finding of Fact #17 indicates the parents accepted the Independent Study (IS) option offered by the school, with the previous "F" replaced with an "IS," and the "IS" to be replaced by the grade earned by the student in retaking the midterm and final exam as part of the Independent Study. Though the remedy is imperfect, no violation of IDEA or Article 7 at 7-18-2(a) is found, and whatever violation may have existed has been corrected by agreement between the parties.
2. Finding of Fact #3 indicates that the services to be provided are listed as, "[the student will take all classes within the general education curriculum with support only through consultation? Finding of Fact #5 indicates that consultation services were provided by the teacher of record to the Algebra II- Honors teacher and the functions required of a teacher of record in the IEP were performed. However, there is no documentation that the teacher of record provided consultation services to the substitute teachers in the Algebra II- Honors class.

Therefore, a violation of 7-27-7(b) is found.

3. Finding of Fact #7 indicates that the regular teacher for Algebra II-Honors was on medical leave from April 6, 2004 to June 9, 2004, due to an "unfortunate medical emergency." Finding of Fact #8 indicates that ten (10) substitute teachers taught the Algebra II- Honors course in the absence of the regular teacher. Findings of Fact #9 and #10 indicate that nine (9) of the substitutes were either licensed teachers or had substitute teacher certificates. One (1) of the substitutes did not have a substitute license. Therefore, a violation is found with regard to 7-21-2(a).

CORRECTIVE ACTIONS

1. The school is to provide an assurance that substitutes serving in extended medical or other extended leave situations will be provided access to those portions of IEPs for which they have responsibility to implement and that consultation and other services will be provided to the substitutes. This assurance is to be submitted to the Division by May 6, 2005.

2. The school is to provide an assurance that substitutes will not be used unless properly certified with a teaching license or a valid substitute certificate. This assurance is to be submitted to the Division by May 6, 2005.